

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA

IN RE:

Michael R. Ray,

Debtor.

C/A No. 02-01212-W

ORDER

Chapter 7

FILED
at _____ o'clock & _____ min. M
DEC - 3 2002
BRENDA K. ARGOE, CLERK
United States Bankruptcy Court
Columbia, South Carolina (18)

ENTERED
DEC 05 2002
V.L.D.

THIS MATTER comes before the Court pursuant to a Motion to Convert Case to Chapter 13 (the "Motion") filed by Michael R. Ray ("Debtor") on November 25, 2002.

The record reflects that Debtor filed a Chapter 13 case, Case No. 01-01937, on February 27, 2001 that was dismissed on April 5, 2001 because Debtor failed to file schedules and statement of affairs. Debtor filed a second Chapter 13 case, Case No. 01-06511, on June 25, 2001 that was dismissed with prejudice for 180 days by an Order entered on September 24, 2001. Debtor filed this Chapter 7 case on February 1, 2002, and the Chapter 7 Trustee declared the case an asset case. Debtor sought the dismissal of this case, but the Chapter 7 Trustee and Creditor Crossman Communities of North Carolina opposed the motion. The Court did not grant the motion to dismiss at the hearing on November 19, 2002 but continued a further hearing until January 3, 2002. Debtor received a discharge under 11 U.S.C. §727 by Order entered on November 21, 2002.¹

As noted in In re Fisher, C/A No. 00-05354-W, slip op. at 2 (Bankr. D. S.C. Jan. 30, 2002), this Court has generally treated a debtor's right to convert a case from Chapter 7 to Chapter 13 as absolute, subject to considering reconversion in appropriate circumstances. However, a debtor must be eligible to be a debtor in the chapter to which he or she is converting.

¹ Further references to the Bankruptcy Code shall be by section number only.

See §706(d). It is noteworthy in this instance that Debtor has had two previous opportunities to reorganize under Chapter 13 in this Court, yet the Court dismissed both cases. Moreover, the Court dismissed Debtor's second Chapter 13 case with prejudice. In instances of serial filings, a debtor bears the burden of demonstrating a change of circumstances to indicate why he or she is entitled to a further opportunity to reorganize under Chapter 13. See In re Hartley, 187 B.R. 506 (Bankr. D.S.C. 1995).

Therefore, in the best interests of creditors, a hearing on Debtor's Motion shall be held on **January 3, 2002 at 9:30 a.m. at the J. Bratton Davis United States Bankruptcy Court, 1100 Laurel Street, Columbia, South Carolina.**

Any objection to the Motion should be filed and served upon Debtor and the Chapter 7 Trustee on or before **December 27, 2002.**

Columbia, South Carolina,
12/3, 2002.


UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

The undersigned deputy clerk of the United States
Bankruptcy Court for the District of South Carolina hereby certifies
that a copy of the document on which this stamp appears
was mailed on the date listed below to:

DEC. 3 2012

All CRS via BNC

~~EDITOR, DEBTOR'S ATTORNEY, TRUSTEE~~

VANNA L. DANIEL

Deputy Clerk